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ALEXANDER L. STEVAS,
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Docket No. 82-444

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1982

GREITZER & LOCKS, et al.,

Petitioners

v.

JOHNS-MANVILLE CORPORATION, et al.,

Respondents

RE: PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

MOTION OF RESPONDENTS, JOHNS-MANVILLE CORPORATION AND JOHNS-MANVILLE SALES CORPORATION, TO DEFER CONSIDERATION OF PETITION FOR WRIT OF CERTIORARI DURING PENDENCY OF AUTOMATIC STAY UNDER 11 U.S.C. §362(a)(1)

NOW COME Respondents, Johns-Manville Corporation and Johns-Manville Sales Corporation, by counsel, and respectfully suggest that all proceedings in the above matter have been automatically stayed by virtue of 11 U.S.C. §362(a)(1). In support of their suggestion, Respondents note as follows:

1. On August 26, 1982, Johns-Manville Corporation and Johns-Manville Sales Corporation filed a Petition under Chapter 11 of the Bankruptcy Act in the United States Bankruptcy Court for the Southern District of New York. (See copy of Restraining Order attached.)

2. Under 11 U.S.C. §362(a)(1), the filing of this Petition automatically stays all proceedings involving Johns-Manville Corporation and/or Johns-Manville Sales Corporation, directly or indirectly, including these proceedings.

3. The Johns-Manville Respondents anticipate that Petitioners, upon receipt of this Motion, may attempt to sever the Johns-Manville Respondents from this action and then ask this Court to proceed without the Johns-Manville Respondents participating. It is urged that this Court not adopt such procedure. Because the rights of all Respondents in this matter are interwoven and common in nature, to sever out the Johns-Manville Respondents and proceed without them would effectively be to decide their rights without them having been afforded an opportunity to participate in either briefing or oral argument. This would be a special detriment in this instance since the Johns-Manville Respondents have taken the lead in this matter from its inception.

WHEREFORE, Respondents, Johns-Manville Corporation and Johns-Manville Sales Corporation pray this Honorable Court proceed no further in the above matters during the pendency of the automatic stay under 11 U.S.C. §362(a)(1).

JOHNS-MANVILLE CORPORATION and
JOHNS-MANVILLE SALES CORPORATION

By _____
Of Counsel

C. Michael Montgomery
Seawell, Dalton, Hughes & Timms
P. O. Box 119
Norfolk, Virginia 23510
(804) 622-5341

AFFIDAVIT OF SERVICE

THIS DAY came C. Michael Montgomery and having been duly sworn, deposed and stated as follows: That on October 1, 1982, a true copy of the attached Motion was mailed, by depositing same in a United States post office mailbox first class, postage pre-paid, to the following counsel representing the parties or entities indicated: Robert C. Nusbaum, Esquire, Hofheimer, Nusbaum, McPhaul & Brenner, 1010 Plaza One, Post Office 3508, Norfolk, Virginia 23514, Counsel for petitioners; William V. Hoyle, Esquire, Hoyle, Corbett, Hubbard, Smith & Payne, 11048 Warwick Boulevard, Suite 201, Newport News, Virginia 23601, Counsel for Raybestos-Manhatten, Inc.; William B. Eley, Esquire, Wilcox, Savage, Dickson, Hollis & Ely, P.C., Post Office Box 3686, Norfolk, Virginia 23514, Counsel for Eagle-Picher Industries, Inc.; Gerard E. W. Voyer, Esquire, Taylor, Walker & Adams, Post Office Box 3530, Norfolk, Virginia 23514, Counsel for Unarco Industries, Inc.; Stuart Batemen, Esquire, 11048 Warwick Boulevard, Newport News, Virginia 23601, Counsel for Fibreboard Corporation; Archibald Wallace, III, Esquire, Sands, Anderson, Marks & Miller, Post Office Box 1998, Richmond, Virginia 23216, Counsel for H. K. Porter Company; John Y. Pearson, Jr., Esquire, Wilcox, Savage, Dickson, Hollis & Ely, P.C., 1800 Virginia National Bank Building, Norfolk, Virginia 23510, Counsel for The Celotex Corporation; Henry C. Morgan, Jr., Esquire, Pender & Coward, P. O. Box 12027, Norfolk, Virginia, 23502; Counsel for Keene Corporation; Richard S. Glasser, Esquire, Glasser and Glasser, 504 Plaza One Building, Norfolk, Virginia 23510, Counsel for Amicus below; Robert R. Hatten, Esquire, Patten & Wornom, 14749 Warwick Boulevard, Newport News, Virginia 23602, Counsel for Amicus below; Solicitor General, Department of Justice, Washington, D.C. 20530, Counsel for United States of America, Amicus below.

C. Michael Montgomery

STATE OF VIRGINIA
~~City of Norfolk~~, Commonwealth at Large, to-wit:

I, Velma M. McKinney, a Notary Public for the City aforesaid, in the State of Virginia, do hereby certify that C. Michael Montgomery, whose name is signed to the foregoing writing, has acknowledged the same before me in my City aforesaid. Given under my hand this 1st day of October, 1982.

Velma M. McKinney
Notary Public
My Commission Expires: 5/13/86

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

(L&W #6)

In re

JOHNS-MANVILLE CORPORATION,
MANVILLE CORPORATION,
MANVILLE BUILDING MATERIALS CORPORATION,
MANVILLE FOREST PRODUCTS CORPORTAION,
MANVILLE INTERNATIONAL CORPORATION,
MANVILLE EXPORT CORPORATION,
MANVILLE PRODUCTS CORPORATION,
JOHNS-MANVILLE AMIANTE CANADA INC.,
JOHNS-MANVILLE CANADA INC.,
JOHNS-MANVILLE INTERNATIONAL CORPORATION,
JOHNS-MANVILLE SALES CORPORATION,
MANVILLE INTERNATIONAL CANADA, INC.,
MANVILLE CANADA INC.,
MANVILLE INVESTMENT CORPORATION,
MANVILLE PROPERTIES CORPORATION,
ALLAN-DEANE CORPORATION,
KEN-CARYL RANCH CORPORATION,
MANVILLE IDAHO INC.,
MANVILLE SERVICE CORPORATION,
MANVILLE CANADA SERVICE INC.,
SUNBELT CONTRACTORS, INC.,

Debtors.

In Proceedings For A Reorganization Under Chapter 11.

Case Nos. 82 B 11656
Through 82 B 11676 Inclusive

RESTRAINING ORDER

Manville Corporation, Johns-Manville Corporation and the debtors hereinabove named (collectively "Manville"), having filed petitions for reorganization under chapter 11, §301 of the Bankruptcy Code and having been continued in the possession and operation of their businesses and property as debtors in possession pursuant to §§1107 and 1108 of the Bankruptcy Code, and

IT APPEARING that this Court, pursuant to 28 U.S.C.

§1471(e) has exclusive jurisdiction of all of the property of Manville, wherever located, and that this Court pursuant to §§105, 362 and 366 of the Bankruptcy Code may issue any order, process or judgment including, without limitation, this restraining order, as may be necessary or appropriate to carry out the provisions of chapter 11, and after due deliberation and sufficient cause appearing therefor and no adverse interest being represented, it is

NOW, on motion of LEVIN & WEINTRAUB and DAVIS POLK & WARDWELL, attorneys for Manville,

ORDERED, that all persons (including individuals, partnerships and corporations, and all those acting on their behalf), and all governmental units (including the United States of America and any State, Commonwealth, District, Territory, municipality, foreign state, department, agency or instrumentality of the United States, a State, a Commonwealth, a District, a Territory, a municipality, a foreign state, or other foreign or domestic governments, and all those acting on their behalf) be and each of them hereby is stayed, restrained and enjoined from:

1. Commencing or continuing, including the issuance or employment of process, any judicial, administrative or other proceeding against Manville, that was or could have been commenced before the commencement of Manville's chapter 11 cases, or recovering a claim against Manville that arose before the commencement of the chapter 11 cases;

2. Enforcing, against Manville or against property of Manville, a judgment obtained before the commencement of the chapter 11 cases;

3. Taking any act to obtain possession of property of Manville or of property from Manville;

4. Taking any act to create, perfect or enforce any lien against property of Manville;

5. Taking any act to create, perfect or enforce against property of Manville, any lien to the extent that such lien secures a claim that arose before the commencement of the chapter 11 cases;

6. Taking any act to collect, assess or recover a claim against Manville that arose before the commencement of the chapter 11 cases; and

7. Offsetting any debt owing to Manville which arose before the commencement of the chapter 11 cases against any claim against Manville,

and it is further

ORDERED, that all persons and all governmental units, and all those acting on their behalf, including sheriffs, marsnalls, constables and other or similar law enforcement officers and officials, be and each of them hereby is stayed, restrained and enjoined from in any way seizing, attaching, foreclosing upon, levying against or in any other way interfering with any and all of the property of Manville, wherever located, and it is further

ORDERED, that all entities furnishing Manville as of the date of the commencement of the within chapter 11 cases with gas, fuel, telephone services, heat, electrical services, water supply, or any other utility of like kind (collectively the "Utility Companies"), be and each of them hereby is stayed, restrained and enjoined from altering, refusing or discontinuing service to, or

from discriminating against, Manville on the basis that a debt owed by Manville to any of such Utility Companies for services rendered prior to the commencement of these chapter 11 cases was not paid when due or on the basis that Manville fails to furnish adequate assurance of future payment in the form of a deposit within twenty (20) days subsequent to the commencement of these chapter 11 cases; and the Court hereby finds that under the circumstances present in the within cases, and particularly in light of Manville's unencumbered asset base, an administrative claim constitutes adequate assurance of future payment in accordance with §366(b) of the Bankruptcy Code, and it is further

ORDERED, that Manville be and it hereby is authorized to expend a sum not exceeding $100,000 in the aggregate to monitor and enforce the automatic stay provisions contained in §362 of the Bankruptcy Code and this Order, including but not limited to making payments to local counsel for such purposes, and it is further

ORDERED, that on request of a party in interest, and after not less than ten (10) days written notice to LEVIN & WEINTRAUB and DAVIS POLK & WARDWELL, attorneys for Manville, and after a hearing, this Court, may consider granting relief from the restraints imposed herein in the event it be necessary, appropriate and warranted to so terminate, annul, modify or condition the injunctive relief granted herein, and it is further

ORDERED, that Manville be and it hereby is directed to

serve a copy hereof together with notice of entry hereof upon all known Utility Companies within ten (10) days of the date hereof, and it is further

Dated: New York, New York
August , 1982

BURTON R. LIFLAND

UNITED STATES BANKRUPTCY JUDGE

No objection
U.S. Trustee
By: s/ Harold Jones

ORDERED, that this Order shall not affect a governmental unit's police or regulatory power or any other exception to the automatic stay contained in § 362 (b) of the Bankruptcy Code.